

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

TYRONE FRANKLIN,

Petitioner,

v.

//

CIVIL ACTION NO. 1:08CV82
(Judge Keeley)

EDWARD F. REILLY, Chairman
of the United States Parole
commission, AND KUMA J. DEBOO,
Warden.

Respondents.

ORDER ADOPTING REPORT AND RECOMMENDATION

On April 16, 2008, pro se petitioner, Tyrone Franklin ("Franklin"), filed a habeas corpus petition pursuant to 28 U.S.C. § 2241, challenging the decision of the United States Parole Commission to deny him parole release. The Court referred this matter to United States Magistrate Judge John S. Kaul for initial screening and a report and recommendation in accordance with Local Rule of Prisoner Litigation 83.09.

On December 19, 2008, Magistrate Judge Kaul issued an Opinion and Report and Recommendation recommending that Franklin's motion under § 2241 be denied and the case be dismissed. Specifically, the Magistrate Judge considered the merits of Franklin's challenge to the Parole Commission's decision to deny him parole at this time, and found that the decision did not constitute cruel and unusual punishment under the Eighth Amendment, that Franklin did not have a liberty interest in parole, and that the court does not

ORDER ADOPTING OPINION/REPORT AND RECOMMENDATION

have authority to review the discretionary decision of the Parole Commission under an abuse of discretion standard.

The Report and Recommendation also specifically warned that failure to object to the recommendation within ten days of receipt of service would result in the waiver of any appellate rights on this issue. No objections were filed.¹

Therefore, the Court **ADOPTS** the Report and Recommendation in its entirety (dkt. no. 11), **DENIES** Franklin's petition under § 2241 (dkt. no. 1) and **ORDERS** the case **DISMISSED WITH PREJUDICE** and stricken from the Court's docket.

It is so **ORDERED**.

The Court directs the Clerk to transmit a copy of this Order to counsel of record, and to mail a copy to the pro se petitioner, certified mail, return receipt requested.

Dated: January 9, 2009

/s/ Irene M. Keeley
IRENE M. KEELEY
UNITED STATES DISTRICT JUDGE

¹ The failure to object to the Report and Recommendation not only waives the appellate rights in this matter, but also relieves the Court of any obligation to conduct a de novo review of the issue presented. See Thomas v. Arn, 474 U.S. 140, 148-153 (1985); Wells v. Shriners Hosp., 109 F.3d 198, 199-200 (4th Cir. 1997).